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SECURITIES AND EXCHANGE COMMISSION  
(Release No. 34-71324; File No. SR-ISE-2014-01)

January 16, 2014

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Schedule of Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the “Act”),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on January 8, 2014, the International Securities Exchange, LLC (the “Exchange” or the “ISE”) filed with the Securities and Exchange Commission (“Commission”) the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of the Substance of the Proposed Rule Change

The ISE proposes to amend its Schedule of Fees to clarify that the ISE’s Ethernet, Gateway, and EAM session fees provide connectivity to the Topaz Exchange, LLC in addition to the ISE. The text of the proposed rule change is available on the Exchange’s Internet website at <http://www.ise.com>, at the principal office of the Exchange, and at the Commission’s Public Reference Room.

II. Self-Regulatory Organization’s Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified

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<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Schedule of Fees to clarify that the ISE's Ethernet, Gateway, and Electronic Access Member ("EAM") session fees provide connectivity to the ISE's sister exchange, the Topaz Exchange, LLC d/b/a ISE Gemini ("Topaz"), in addition to the ISE. On December 16, 2013 Topaz filed a rule change that established various non-transaction fees, including Ethernet, Gateway, and Financial Information eXchange ("FIX") session fees that provide access to both Topaz and the ISE.<sup>3</sup> On January 2, 2014 Topaz filed another rule change to permit EAMs that connect to that exchange via an Application Programming Interface ("API") to also connect to the ISE for a single fee.<sup>4</sup> The ISE now proposes to add similar clarifying text to its fee schedule to reflect the fact that these connectivity options provide connectivity to both the ISE and Topaz for a single fee.

The Exchange charges an Ethernet fee for its four different Ethernet connection options, which is \$500 per month for a 1 Gigabit ("Gb") connection, \$4,000 per month for a 10 Gb connection, \$7,000 per month for a 10 Gb low latency connection, and \$12,500 per month for a 40 Gb low latency connection. The Exchange also charges members a monthly gateway fee of \$250 per gateway for a shared gateway or \$2,000 per gateway pair for members that elect to use their own dedicated gateways as an alternative to using shared gateways. Finally, the Exchange charges EAMs that connect to the Exchange via API a session fee of \$250 per month each for the

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<sup>3</sup> See Exchange Act Release No. 71149 (December 19, 2013), 78 FR 78447 (December 26, 2013) (SR-Topaz-2013-16).

<sup>4</sup> See SR-Topaz-2014-01 (citation pending publication by the Commission).

first five sessions and \$100 per month each additional session, and charges EAMs that connect to the Exchange via FIX a session fee of \$250 per month each for the first two sessions and \$50 per month for each additional session.<sup>5</sup> The ISE now proposes to clarify that each of these connectivity options provides connectivity to Topaz in addition to the ISE. Members and non-members that connect to both the ISE and Topaz through any of these connectivity options will not be required to pay a separate fee to Topaz for such connectivity. Market participants will pay the same fees regardless of whether they choose to connect to both exchanges or solely to the ISE.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,<sup>6</sup> in general, and Section 6(b)(4) of the Act,<sup>7</sup> in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities. The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to clarify that its fees provide connectivity to both Topaz and the ISE. The Exchange notes that the fee schedule of its sister exchange, Topaz, already reflects that its fees provide access to both exchanges. The ISE now proposes to adopt similar language. Providing access to both the ISE and Topaz for a single fee will keep overall fees low for market participants that establish connectivity to both exchanges. With respect to session fees, the Exchange notes that only EAM sessions (both FIX and API) provide connectivity to Topaz in addition to the ISE. The Exchange does not believe that this is unfairly

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<sup>5</sup> The Exchange notes that Market Maker API session fees are separate for ISE and Topaz as Topaz has opted for a different pricing structure for its Market Maker API session fees. See id.

<sup>6</sup> 15 U.S.C. 78f.

<sup>7</sup> 15 U.S.C. 78f(b)(4).

discriminatory as Topaz has opted for a different pricing structure for its Market Maker API session fees.<sup>8</sup>

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,<sup>9</sup> the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange believes that the proposed rule change is pro-competitive as it clarifies that members that connect to both Topaz and the ISE will be able to do so for a single fee. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

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<sup>8</sup> See supra note 5.

<sup>9</sup> 5 U.S.C. 78f(b)(8).

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,<sup>10</sup> and subparagraph (f)(2) of Rule 19b-4 thereunder,<sup>11</sup> because it establishes a due, fee, or other charge imposed by Topaz.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

### IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

#### Electronic comments:

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File No. SR-ISE-2014-01 on the subject line.

#### Paper comments:

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

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<sup>10</sup> 15 U.S.C. 78s(b)(3)(A)(ii).

<sup>11</sup> 17 CFR 240.19b-4(f)(2).

All submissions should refer to File No. SR-ISE-2014-01. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method.

The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR-ISE-2014-01, and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.<sup>12</sup>

Kevin M. O'Neill  
Deputy Secretary

[FR Doc. 2014-01246 Filed 01/22/2014 at 8:45 am; Publication Date: 01/23/2014]

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<sup>12</sup> 17 CFR 200.30-3(a)(12).